

IN THE UNITED STATES BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE:

CYNTHIA FOSTER BROWNING ) CHAPTER: 13  
SSN: XXX-XX-6229 ) CASE NO.: 15-09120  
3518 WHITEBUD LANE ) JUDGE: WALKER  
MURFREESBORO, TN 37128 )  
Debtor

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**THE DEADLINE FOR FILING A TIMELY RESPONSE IS: October 5, 2018  
IF A RESPONSE IS TIMELY FILED, THE HEARING WILL BE: October 17, 2018 at 8:30a.m. in Courtroom 1,  
Customs House, 701 Broadway, Nashville, TN 37203.**

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**NOTICE OF MOTION TO UTILIZE INSURANCE PROCEEDS TO PAY SECURED CLAIM AND  
REQUIRE RELEASE OF LIEN**

Debtors have asked the court for the following relief: To utilize insurance proceeds to pay secured claim and require release of lien.

**YOUR RIGHTS MAY BE AFFECTED.** If you do not want the court to grant the attached motion by entering the attached order, or if you want the court to consider your views on the motion, then on or before the response date stated above, you or your attorney must:

1. File with the court your response or objection explaining your position. **PLEASE NOTE: THE BANKRUPTCY COURT FOR THE MIDDLE DISTRICT OF TENNESSEE REQUIRES ELECTRONIC FILING. ANY RESPONSE OR OBJECTION YOU WISH TO FILE MUST BE SUBMITTED ELECTRONICALLY. TO FILE ELECTRONICALLY, YOU OR YOUR ATTORNEY MUST GO TO THE COURT WEBSITE AND FOLLOW THE INSTRUCTIONS AT: <<https://ecf.tnmb.uscourts.gov>>.**

If you need assistance with Electronic Filing you may call the Bankruptcy Court at (615) 736-5584. You may also visit the Bankruptcy Court in person at: US Bankruptcy Court, 701 Broadway, 1<sup>st</sup> Floor, Nashville, TN (Monday - Friday, 8:00 A.M. - 4:00 P.M.).

2. Your response must state that the deadline for filing responses, the date of the scheduled hearing and the motion to which you are responding is.

If a response is filed before the deadline stated above, the hearing will be held at the time and place indicated above. **THERE WILL BE NO FURTHER NOTICE OF THE HEARING DATE.** You may check whether a timely response has been filed by calling the Clerk's office at (615) 736-5584 or viewing the case on the Court's website at <[www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov)>.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: September 14, 2018

Signature: /s/ Mary Beth Ausbrooks

Name: Mary Beth Ausbrooks

Address: 1222 16<sup>th</sup> Avenue South, Suite 12  
Nashville, TN 37212-2926

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FOR THE MIDDLE DISTRICT OF TENNESSEE

IN RE: )  
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CYNTHIA FOSTER BROWNING ) CHAPTER:      13  
SSN: XXX-XX-6229       ) CASE NO.:    15-09120  
3518 WHITEBUD LANE     ) JUDGE:        WALKER  
MURFREESBORO, TN 37128 )  
          )

Debtor

**MOTION TO UTILIZE INSURANCE PROCEEDS TO PAY SECURED CLAIM AND REQUIRE  
RELEASE OF LIEN**

COMES the Debtor, by and through counsel, Rothschild & Ausbrooks, PLLC, and pursuant to Local Rule 9013-1, move for an order granting this Motion to Utilize Insurance Proceeds to pay secured claim and require release of lien and states as follows:

1. The Debtor moves for an Order authorizing her to use insurance proceeds received from Allstate Auto Insurance in the amount of \$9,839.55, Estimate of Record attached hereto as exhibit, for the Debtor's 2013 Hyundai Elantra that was destroyed in a recent accident.

2. Allstate Auto Insurance has offered an insurance settlement check, after the deductible, of \$9,839.55. The Debtor proposes to use a portion of the proceeds to pay the remaining claim of Insolve Auto Funding in the amount of \$8,519.11 (9/2018), and use the remaining proceeds in the amount of \$1,320.44 as a down payment on a replacement vehicle. Upon this motion be granted, Allstate Auto Insurance shall issue two (2) separate checks, one payable Insolve Auto Funding in the amount of \$8,519.11 and mailed in c/o Capital Recovery Group, Dept. 3403, PO Box 123403, Dallas, TX, 75312-3403, to be earmarked for the final payment of its claim. The Trustee would cease all payments on the claim to Insolve Auto Funding (ECF Claim #9). The second check shall be made payable to the Debtor in the amount of \$1,320.44 and mailed directly to her to be used as a down payment on a replacement vehicle.

3. Debtor further moves to require Insolve Auto Funding to release the lien on the title of the destroyed 2013 Hyundai Elantra, and remit same to Allstate Auto Insurance Auto Claims, Copart 45491758, PO Box 1170, Lebanon, TN 37088 to allow Allstate Auto Insurance to dispose of the salvage.

4. Debtor further moves to require Insolve Auto Funding to execute all necessary forms to complete this transaction as quickly as possible.

5. Debtor further moves to reduce plan payments from \$807.00 monthly to \$407.00 monthly by only removing the claim of Insolve Auto Funding. The monthly payments to Insolve Auto Funding would cease. The dividend of one hundred percent (100%) and the base amount would remain the same.

6. Debtor is in need of a replacement vehicle and requests permission to incur debt with a principal amount of no more than \$20,000.00, with an interest rate of no more than 22% and a monthly payment of no more than \$400.00. Debtor attaches an Amended Family Budget which reflects her current household income and expenses, along with a replacement vehicle payment and any other changes since the last budget was submitted.

7. Debtor attended the Trustee's money management course on September 11, 2018.

Respectfully submitted,

/s/ Mary Beth Ausbrooks

Mary Beth Ausbrooks  
ROTHSCHILD & AUSBROOKS, PLLC  
Attorney for Debtor(s)  
1222 16<sup>th</sup> Avenue South, Suite 12  
Nashville, TN 37212  
(615) 242-3996 (telephone)  
(615) 242-2003 (facsimile)  
[notice@rothschildbklaw.com](mailto:notice@rothschildbklaw.com)  
JLM

#### **CERTIFICATE OF SERVICE**

I certify that on this 14<sup>th</sup> day of September, 2018, I mailed/e-mailed a copy of the foregoing to the Chapter 13 Trustee, P.O. Box 340019, Nashville, TN 37203; to Office of the U.S. Trustee, 701 Broadway, Suite 318, Nashville, TN 37203; to the Debtor at the address referenced; to Allstate Auto Insurance Auto Claims, Copart 45491758, PO Box 1170, Lebanon, TN 3708; and to Insolve Auto Funding, c/o Capital Recovery Group, Dept. 3403, PO Box 123403, Dallas, TX, 75312-3403.

/s/ Mary Beth Ausbrooks

Mary Beth Ausbrooks

TOTAL MAILINGS: 3